

### **REMARKS**

Claims 1-20 and new claims 21-26 are presented herewith for consideration by the Examiner. In the office action, the Examiner rejected claims 1, 5 and 6, allowed original claims 10-20 and objected to claims 2-4 and 7-9 as being dependent upon a rejected base claim, but would allowable if rewritten in independent form to include all the limitations of the base claims and any intervening claims. Applicants submit herewith claims 10-20 as originally presented and allowed and new claims 21-25. Independent claim 21 includes the elements of original claims 1 and 2. Dependent claims 22 and 23 include the elements set forth in original claims 3 and 4 to depend from new claim 21. Independent claim 24 includes the elements of original claims 1 and 7. Independent claim 25 includes the elements of original claims 1 and 8. Dependent claim 26 includes the elements set forth in original claim 9 to depend from new claim 25. Applicants respectfully submit that new claims 21-26 are allowable and such action is respectfully requested.

The Examiner rejected independent claim 1 under 35 USC §102(b) as being anticipated by Hufton et al. Applicants cited the Hufton et al. patent in the specification as prior art where Hufton et al. fails to teach an aeration detection system capable of discerning between gas and other impurities entrapped within the engine oil. Therefore, Hufton, et al. assumes that any change in capacitance of the oil is the result of aeration.

In sharp contrast, Applicants' invention, as now more clearly defined in claim 1, provides a measure of capacitance of de-aerated oil within the system for comparison with a measure of capacitance of the flowing oil, providing the ability to differentiate the source in the change of the capacitance.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art.

By amending the application, Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants intend to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the

interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

### **CONCLUSIONS**

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicants request that the Examiner contact the undersigned at (248) 258-3877.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 12-2136 for any fee which may be due.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Theresa A. Orr', written over a horizontal line.

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Theresa A. Orr  
Registration No. 34,890  
Butzel Long  
100 Bloomfield Hills Parkway  
Suite 200  
Bloomfield Hills, MI 48304